

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DENSO CORPORATION,)
)
Plaintiff,)
)
v.) C.A. No. _____
)
DELPHI CORPORATION and DELPHI)
AUTOMOTIVE SYSTEMS, LLC,)
)
Defendants.)

COMPLAINT

Plaintiff DENSO CORPORATION (“Denso”), as and for its complaint against defendants Delphi Corporation and Delphi Automotive Systems, LLC (collectively “Delphi”), avers:

THE PARTIES

1. Denso is a corporation organized under the laws of Japan, and maintains its principal place of business at 1-1, Showa-cho, Kariya-shi, Aichi-ken, 448-8661, Japan.

2. Defendant Delphi Corporation, upon information and belief, is a corporation organized under the laws of Delaware that maintains its principal place of business at 5725 Delphi Drive, Troy, Michigan 48098.

3. Defendant Delphi Automotive Systems, LLC, upon information and belief, is a limited liability company organized under the laws of Delaware that maintains a place of business at 5725 Delphi Drive, Troy, Michigan 48098. Upon information and belief, defendant Delphi Automotive Systems, LLC is a wholly owned subsidiary of defendant Delphi Corporation.

JURISDICTION AND VENUE

4. This is an action for patent infringement under the patent laws of the United States, 35 U.S.C. § 1 *et seq.* This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400.

THE PATENTS IN SUIT

6. United States Patent 6,279,390 (the “‘390 patent”), entitled “Thermostat Malfunction Detecting System For Engine Cooling System,” duly and legally issued to Denso, as the assignee of the inventors, on August 28, 2001. A copy of the ‘390 patent is attached as Exhibit A.

7. United States Patent 6,679,110 (the “‘110 patent”), entitled “Thermostat Malfunction Detecting System For Engine Cooling System,” duly and legally issued to Denso, as the assignee of the inventors, on January 20, 2004. A copy of the ‘110 patent is attached as Exhibit B.

8. United States Patent 6,725,710 (the “‘710 patent”), entitled “Thermostat Malfunction Detecting System For Engine Cooling System,” duly and legally issued to Denso, as the assignee of the inventors, on April 27, 2004. A copy of the ‘710 patent is attached as Exhibit C.

9. From the respective date of issuance of each of the ‘390, ‘110 and ‘710 patents (“the patents in suit”), Denso has been and still is the owner of the patents in suit, with all right to sue and to recover for past infringement thereof.

CLAIM FOR PATENT INFRINGEMENT

10. Upon information and belief, Delphi has been and is now directly infringing, inducing infringement of, and contributorily infringing, one or more claims of the patents in suit in violation of 35 U.S.C. § 271 by making, using, selling, or offering to sell certain engine control units in the United States. Prior to bringing this action, Denso negotiated with Delphi regarding possible resolution of this dispute. During those negotiations, Denso attempted to obtain certain non-public information from Delphi regarding Denso's beliefs as to infringement, but Delphi did not provide such information. Denso believes that its allegation that Delphi has been and is now directly infringing, inducing infringement of, and contributorily infringing, one or more claims of the patents in suit is likely to have evidentiary support after a reasonable opportunity for further investigation or discovery concerning Delphi's products.

11. Denso has sustained damages and suffered irreparable harm as a consequence of Delphi's infringement, and will continue to sustain damages and be irreparably harmed unless Delphi is enjoined from infringing the patents in suit.

12. Although Denso has given Delphi notice of its infringement, it continues to infringe. Hence, upon information and belief, Delphi's infringement is willful and will continue unless enjoined by this Court.

WHEREFORE, plaintiff DENSO CORPORATION seeks judgment in its favor and against defendants Delphi Corporation and Delphi Automotive Systems, LLC as follows:

a. Adjudging and decreeing that Delphi has infringed one or more claims of the patents in suit;

- b. Permanently enjoining Delphi, its officers, agents, servants, employees, and attorneys, and all persons in active concert or participation with them from infringing the patents in suit;
- c. Awarding damages in an amount sufficient to compensate Denso for Delphi's infringement, together with prejudgment interest and costs of suit;
- d. Adjudging Delphi a willful infringer and awarding Denso treble damages under 35 U.S.C. § 284;
- e. Declaring that this is an exceptional case under 35 U.S.C. § 285, and awarding reasonable attorney fees and expenses to Denso;
- f. Granting such other and further relief as the Court may deem just and appropriate.

MORRIS, NICHOLS, ARSHT & TUNNELL



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